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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,402	03/19/2001	William Frederick Schacht	4635/234	9927

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EXAMINER

TRAN, HANH VAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/701,402

Applicant(s)

SCHACHT ET AL.

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-14, 16-21 and 102-114 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16-21 and 102-114 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This is a Second Non-Final Office action from the examiner in charge of this application.

#### *Specification*

2. The disclosure is objected to because of the following informalities: (1) page 9, Brief Description of drawing Fig 61 should be deleted, Figure 61 does not exist in the drawings, (2) page 10, brief description of drawing 75C, second occurrence, should be 75D, and 75D should be 75E.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2-14, 16, and 102-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollenkopf in view of Canfield et al, Behrendt and the ordinary skill of one versed in the art.

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Mollenkopf is cited to show a desk 10 with a worksurface 20 supported by cantilever members 18 attached to stanchions 12 in a suitable manner, the stanchions having openings 22 and covers 49 and having brackets 40 attached to the stanchions. The differences being that Mollenkopf fails to show an adjustable worksurface, J-shaped brackets having structural limitations in claims 103-105 or trapezoidal stanchions. However, Mollenkopf cites Canfield et al as disclosing the superstructure of the uprights/stanchions 12. Canfield shows uprights having slots 42 and brackets having hooks 49 supporting the worksurface and a trough/bracket that is more or less J-shaped attached to the uprights/stanchions and a panel by brackets 155; wherein the J-shaped bracket comprises a horizontal surface 87, such as shown in Fig 23, having a first edge and a second edge being substantially parallel to the first edge, a first vertical surface 87A integrally attached to the first edge of the horizontal surface and entirely extends upwardly, a second vertical surface 153 integrally attached to the second edge and entirely extends upwardly, said second vertical surface being shorter than the first vertical surface, and no cover being directly connected to the first and second vertical surfaces in order to provide a wire management trough for the modular desk. Generally the shape of an element is considered an obvious matter of design choice. Here the shape of the stanchions, the approximate angle of intersection of surfaces, and the brackets are considered to be an obvious modification of the shape of elements within the ability of one having an ordinary skill in the art. Behrendt is cited to show that it is well known to use the trapezoidal shape for a stanchion. Since the references are from the same field of endeavor the purpose of Behrendt and Canfield et al would have been obvious in the pertinent art of Mollenkopf at the time of the invention and it would have been obvious for one having an ordinary skill in the art to have modified Mollenkopf with stanchions

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having a trapezoidal shape in view of Behrendt, and with the trough/brackets having a J-shape which includes structures as recited in claims 103-104 for the purpose of supporting wires and with slots in the stanchion and hooks in the bracket to adjustable support the worksurface relative to the stanchions in view of Canfield et al and as an obvious matter of design choice within the ability of one versed in the art. Official Notice is taken of the approximately 93.5 degree angle of claims 6 and 7. The shape of an element is an obvious matter of design choice for one versed in the art. The angle of intersection of two sides of a stanchion is therefore not a patentable distinction in the art.

6. Claims 17-21, and 106-114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollenkopf in view of Canfield et al, USP 5,906,420 to Rozier et al, Behrendt and the ordinary skill of one versed in the art.

Mollenkopf is cited to show a desk 10 with a worksurface 20 supported by cantilever members 18 attached to stanchions 12 in a suitable manner, the stanchions having openings 22 and covers 49 and having brackets 40 attached to the stanchions. The differences being that Mollenkopf fails to show an adjustable worksurface, a J-shaped bracket having structural limitations in claims 106-108, a second bracket attached to said first and second floor stanchions and having structural limitations as recited in claims 109-114 or trapezoidal stanchions. However, Mollenkopf cites Canfield et al as disclosing the superstructure of the uprights/stanchions 12. Canfield shows uprights having slots 42 and brackets having hooks 49 supporting the worksurface and a trough/bracket that is more or less J-shaped attached to the uprights/stanchions and a panel by brackets 155; wherein the J-shaped bracket comprises a horizontal surface 87, such as shown in Fig 23, having a first edge and a second edge being

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substantially parallel to the first edge, a first vertical/interior surface 87A integrally attached to the first edge of the horizontal surface and entirely extends upwardly, a second vertical/exterior surface 153 integrally attached to the second edge and entirely extends upwardly, said second vertical/exterior surface being shorter than the first vertical/interior surface, and no cover being directly connected to the first and second vertical surfaces in order to provide a wire management trough for the modular desk. Rozier et al shows modular desk system having two wire management brackets 31,34, such as shown in Fig 3, for the purpose physically separate electrical power and data cables in order to avoid electrical interference. Generally the shape of an element is considered an obvious matter of design choice. Here the shape of the stanchions, the approximate angle of intersection of surfaces, and the brackets are considered to be an obvious modification of the shape of elements within the ability of one having an ordinary skill in the art. Behrendt is cited to show that it is well known to use the trapezoidal shape for a stanchion. Since the references are from the same field of endeavor the purpose of Behrendt, Canfield et al, and Rozier et al would have been obvious in the pertinent art of Mollenkopf at the time of the invention and it would have been obvious for one having an ordinary skill in the art to have modified Mollenkopf with stanchions having a trapezoidal shape in view of Behrendt, and with the first brackets having a J-shape which includes structures as recited in claims 103-108 for the purpose of supporting wires and with slots in the stanchion and hooks in the bracket to adjustable support the worksurface relative to the stanchions in view of Canfield et al, and a second bracket attached to the first and second stanchions which second bracket includes structures as recited in claims 109-114 for the purpose physically separate electrical power and

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data cables in order to avoid electrical interference in view of Rozier et al, and as an obvious matter of design choice within the ability of one versed in the art.

***Response to Arguments***

7. Applicant's arguments filed 11/10/03 have been fully considered but they are not persuasive.
8. In response to applicant's arguments on page 18 that "neither Mollenkopf nor Canfield teaches or suggests the J-shaped bracket", the examiner take the position that as stated in the above art rejection, Canfield does teach a J-shaped bracket.
9. In response to applicant's arguments on page 19 that the trough 86 and bracket 155 of Canfield are not attached to the uprights/stanchions but to a panel 18, the examiner take the position that the trough 86 and the bracket 155 are attached to the sidewall 28 of the upright/stanchion 11A.
10. In response to applicant's arguments on page 20 that Mollenkopf and Canfield implicitly teach away from changing the stanchions to the trapezoidal shape because the uprights/stanchions in both references are hollow, the examiner take the position that just because the uprights of Mollenkopf and Canfield are hollow there is nothing in the references themselves would suggest teaching away from the trapezoidal shape, and the stanchions disclosed in the present invention is also hollow.
11. Applicant's arguments with respect to claims 17-21 have been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzburgh, Grabowski et al, Meyer et al, Newhouse et al, Capdevila, Ishikawa, and Cathelineau et al all show structures similar to various elements of applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT  
February 6, 2004



**Hanh V. Tran**  
**Art Unit 3637**